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PTO/SB/33 (07/05)

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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) ITL.0405US (P8988)
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR		Application Number 09/841,657
on <u>February 13, 2006</u>		Filed April 24, 2001
Signature 		First Named Inventor Duncan M. Kitchin
Typed or printed name <u>Nancy Meshkoff</u>		Art Unit 2663
		Examiner Chi Ho A. Lee

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

applicant/inventor.

assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

attorney or agent of record.

Registration number 28,994

attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 _____



Signature

Timothy N. Trop

Typed or printed name

(713) 468-8880

Telephone number

February 13, 2006

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.

<input type="checkbox"/>	*Total of _____ forms are submitted.
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This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Applicant:

Duncan M. Kitchin

§ § § §

Art Unit: 2663

Serial No.: 09/841,657

§ § §

Examiner: Chi Ho A. Lee

Filed: April 24, 2001

§ § §

Docket: ITL.0405US
P8988

For: Managing Bandwidth in Network
Supporting Variable Bit Rate

§ § §

Assignee: Intel Corporation

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

STATEMENT IN SUPPORT OF A PRE-APPEAL BRIEF REQUEST FOR REVIEW

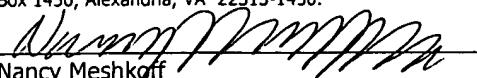
Sir:

A pre-appeal review is requested because the Office action interprets the reference in a way which cannot be sustained.

Namely, the claims call for a controller to detect a bit rate change event. A first portion of the data is transmitted using a reserved bandwidth in response to the event and a second portion of the data is transmitted using an unreserved bandwidth in response to detecting the bit change event.

In other words, when the bit rate change event occurs, some data goes on a reserved bandwidth and some goes on an unreserved bandwidth.

Date of Deposit: February 13, 2006
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Nancy Meshkoff

The Office action suggests that step 516 in Figure 5 of the Newberg reference teaches determining when additional bandwidth is required at a mobile. This the examiner contends is a bit rate change event.

The problem is that, even if we were to accept that argument for present purposes only, the claim still requires that a first portion of the data be transmitted using a reserved bandwidth and a second portion be transmitted using an unreserved bandwidth. Nowhere does the reference ever indicate that a second portion of the data is transmitted on an unreserved bandwidth in response to the detection of bit rate change event.

Firstly, it should be noted that the examiner relies on a new bandwidth request 518 and suggests that somehow this teaches determining whether additional unreserved bandwidth is required. However, the request 518 is explained in column 7, lines 17 *et seq.* It is clear that the request 518 is a request from an additional application (see Column 7, lines 19-20) not a bit rate change in the same application that was previously the subject of a reserved bandwidth. Thus the reliance on step 518 is unavailing because (1) it does not teach any unreserved bandwidth, and (2) it relates to a different application, not the application which was already subject to the alleged bit rate change.

Moreover, the reference actually explains the step 516 although it never actually refers to the step 516 in the drawing. Namely, in column 7, lines 5-16 it is explained that the communication system continually assesses the traffic and channel requirements 500 and that it keeps account of the actual slots per second used by the application. This reflects the actual channel utilization of the application. The actual channel utilization is compared with the predicted channel bandwidth that is allocated or reserved. This is done “to determine if an adjustment should be made to the bandwidth allocation”. Thus the language “bandwidth allocation” suggests that if something changes, new bandwidth is allocated. This is the opposite of suggesting applying an unreserved bandwidth as set forth, for example, in claim 1.

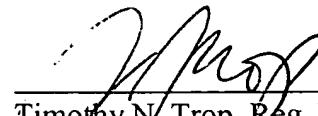
Therefore the reference cited under § 102 explicitly teaches away or teaches the opposite of what is claimed. Therefore the rejection cannot be sustained.

Corresponding limitations may be found in claim 10 and claim 18.

Reconsideration is not requested with respect to claims 24-30.

Respectfully submitted,

Date: February 13, 2006



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